



City of Miami Springs, Florida

The Miami Springs City Council held a **WORKSHOP MEETING** in the Council Chambers at City Hall on Wednesday, June 11, 2003, at 7:00 p.m.

1. Call to Order/Roll Call

The following were present:

Vice Mayor Eric Elza
Councilman Jim Caudle
Councilman Peter Pacheco
Councilman Rob Youngs

Absent:

Mayor Billy Bain

Also Present:

City Manager Maria V. Davis
Asst. City Manager/Bldg. Official Michael A. Sprovero
Finance Director Charles G. Marshall
Elderly Services Director Karen Rosson
Police Chief H. Randall Dilling
City Clerk Magalí Valls

2. Invocation: Councilman Caudle offered the invocation.

Salute to the Flag: The audience participated in the salute to the Flag.

3. Budget Workshop – Presentation by Ken Small of the Florida League of Cities Regarding Revenue Enhancement

Ken Small of the Florida League of Cities stated that rather than making a presentation he would have more of an interactive meeting and for Council to ask questions during the process.

Mr. Small gave an overview of how municipal revenues are set up in the State of Florida. He explained that cities operated under the “Dilling Rule” prior to 1968, which set very strict guidelines and when the constitution was amended in 1968, the cities were provided with Home Rule Authority.

Mr. Small explained that with Home Rule Authority, cities could generally enact any law, including revenues, providing that it is not prohibited by the State or the Constitution. He said that under Article Seven of the Constitution, taxation is strictly controlled by the State. Mr. Small referred to case law regarding occupational license fees and cities imposing sales taxes and to the Attorney General opinions dealing with municipal utility taxes.

Mr. Small commented that the City of Boca Raton case is very important because it sets the authority for city governments to use special assessments to fund municipal services, and it clearly defines that special assessments are not taxes and they are clearly a Home Rule revenue. He said there must be a case law to follow in order for it to be legal.

Mr. Small referred to the City of Miami Springs utility tax ordinance that was adopted in 1972, and said that the structure is improper according to the Attorney General's opinion. He suggested that the City Attorney could review the ordinance with that opinion.

Mr. Small stated that some examples of Home Rule revenues are special assessments, impact fees, franchise fees, user fees, services charges, etc. The Boca Raton case reaffirms that the use of special assessments is not a tax and they can be used to fund municipal services with the condition that they meet two key elements of the law. The property must derive a special benefit, not people, and the cost must be fairly and reasonably apportioned based on the benefits received.

Mr. Small explained there are three categories for Home Rule revenues. One category is an exchange for a right, service or a privilege and examples include franchise fees, rental fees, recreation fees and administrative fees. The second category is to fund the cost of regulatory activity, including permit fees, inspection fees and zoning fees. The third category is to fund the cost of a governmental service or facility for which the property owner's activity or land use creates the need for the service or the facility and this includes impact fees, stormwater fees, and solid waste tipping fees.

Mr. Small pointed out that there are several different types of revenues available to the City. User fees are approximately half of all revenues, while property taxes are approximately 16% of the total revenues. He explained that the socioeconomic make up of a city is a major factor. He said that most elected officials believe in structuring the mixture of revenues in order to have everyone pay their share and not put the burden on one class or group.

Mr. Small said that comparing the total property tax revenue and the law enforcement expenses it shows that police budgets consume 95% of all municipal property taxes and the Total Reported Municipal Expenditure chart shows that cities spend far more for recreation than on road structures.

Mr. Small presented the 2002 Florida Municipal Ad Valorem Tax Profile showing the millage rates for the 405 municipalities in the State.

Vice Mayor Elza stated that the City of Miami Springs must find new sources of revenue because the millage rate has increased to 8.15 and the cap is ten mills.

Mr. Small commented that there are many different ways to increase revenue. The Constitution states that up to ten mills can be levied for school, county and municipal purposes. He explained that Special Taxing Districts do not have a ten-mill cap because the millage rate for special districts are set by law, and it must be ratified by the voters within the district.

Mr. Small explained that the City could float a General Obligation Bond and pledge the property tax for the bond issue and this millage would be outside the cap. Another option that is rarely used is to levy an operating millage rate in excess of ten mills, which must be ratified by the voters through a referendum, which is good for two years. He mentioned that the residents of Indian Creek voted for this option because they want all charges for services to be included in their property tax and the expenses are deducted from their income tax.

Mr. Small stated that Miami Springs' per capital taxable value is approximately \$49,000, which is the tax base divided by the permanent population, and the State average is \$55,000. He said that this is the number one indicator that shows where a local government stands. Mr. Small said that the municipal taxable value for all property in Miami Springs indicates that one mill is equivalent to \$672,785 and most cities budget 95%, which would be \$640,000. He added that the City's police budget is fairly equal to the property tax revenue.

Mr. Small reviewed the history of property taxes in the state and explained how it led to the TRIM law, which is truth in millage. This created a roll back rate that represents what the millage rate needs to be in order to raise the same amount of property taxes in the prior year. New construction is not part of the TRIM law because it represents new services that have to be provided.

Mr. Small said that the "Save Our Homes" Constitutional amendment came about in 1992, which capped the assessment on properties with a homestead exemption, the cap would remain in effect as long as the owner has a homestead exemption, and if the property were sold to another owner, then the property would be reassessed at the full market value. Everyone said that it is a 3-mill cap, but the Constitution states that the increase can only go up by 3% or the Consumer Price Index (CPI), whichever is least, and since the law took effect, the CPI has only exceeded 3% twice.

Mr. Small explained that regardless of how much the property values increase or the amount shown on the TRIM as a tax increase, the taxes for a resident with a homestead exemption could not go up more than 1.6% because of the "Save Our Homes" cap. The people that benefit the most are the high-end properties, primarily waterfront, country club and gated communities. Without these assessments built into the tax base, this causes the municipality to levy a higher millage rate. This also creates a tax shift to rental properties, businesses, industrial properties and to the property owners with homestead exemptions that live in neighborhoods where the property values are not going up.

In 1973, during the Arab oil embargo, the gasoline prices skyrocketed; the legislature exempted any increase in utility rates that was caused by the increase in the cost of fuel, according to Mr. Small. He explained that the electricity rates have a fuel rate and a base rate and even though the electric bills might increase, the utility tax would not go up.

When Florida Power and Light Company (FPL) was ordered by the Public Service Commission to give a refund, it is credited to the customer's electric bill and this resulted in less utility taxes paid to the City, and the same applied when FPL was ordered to reduce the base rate.

Mr. Small explained that the electric franchise fee is different because it is based on a percentage of gross revenues of certain classes of electric customers and as the price of the fuel increases, the gross receipts and the franchise fee paid to the City goes up, and when the price of fuel goes down it works in the opposite way. He said that a franchise is completely different than a tax, the Supreme Court has ruled many times on this issue, and it is considered a Home Rule revenue that is charged in exchange for a service or privilege.

Mr. Small stated that state law does not govern franchise agreements, the terms and conditions are open to negotiation and both parties must agree. Some cities pass an ordinance with the franchise fee, and even if an ordinance is adopted, the City must still execute a legal document accepting the terms and conditions of the ordinance, or it is invalid.

To answer Councilman Youngs' question, City Manager Maria V. Davis stated that the ordinance adopting the franchise agreement with Florida Power and Light was passed on first reading, Mr. Small offered a few suggestions, and the City is going back to the table to continue negotiations.

Mr. Small said that the Florida Public Services Commission deregulated the sale of natural gas in the State of Florida beginning in 1990 and the utility tax does not apply if gas is purchased outside of the City. He suggested that in the future when negotiating a franchise agreement, the best way is to identify a cost per unit based on consumption and to include an annual escalator that is tied to the Consumer Price Index.

Mr. Small explained that a variety of revenues were rolled into one Communications Services Tax approximately two years ago. Before this tax was implemented, it was a problem for the communication companies to figure out what was taxable and what was not taxable. He said that when companies were audited and it was determined that they were incorrectly taxing people, they had to pay large judgments and that is why they created a simplified tax.

The Communications Tax includes all different types of communications and cable television. The state rate is 9.17% and each city and county can charge a local rate of up to 5.1% and an additional 0.12% if construction permit fees are waived, which totals 5.22%. This has been a good revenue source for cities.

Occupational License taxes were ruled invalid because there was no general law, so in 1972 a law was written that says whatever the rate was in 1971, would be the rate for the future. The first increase was allowed in 1980, and some cities took advantage of this and some did not. Finally in 1993, the state allowed the City Councils to create an Equity Study Commission made up of members of the business community that were to provide an equitable rate structure that would achieve the amount of dollars allowed under the legislation.

Mr. Small explained that the City of Miami Springs did not take advantage of this legislation and the cities that created an Equity Study Commission, even if the rates were not revised, were allowed to increase the rates up to 5% every two years.

To answer Vice Mayor Elza's question, Assistant City Manager/Building Official Michael A. Sprovero clarified that the City's occupational licenses were last increased in 1980, the City of Miami Springs did not create an Equity Study Commission in 1994, and the way the statute is written, the fees cannot be increased until the law is changed.

Mr. Small stated that at some point in the future, the business community could open the window again to create another Equity Study Commission so those cities that did not participate in 1994, could come in and find a way to lower and raise the occupational license rates within certain limits.

Vice Mayor Elza asked if the Florida League of Cities is lobbying for a bill that would allow cities to create an Equity Study Commission.

Mr. Small said that the Florida Occupational License Administrators (FEOLA) has recently approached the Florida League of Cities with this concept, but the business community must be convinced.

Mr. Small referred to legislation that allows local governments to make a reasonable rate of return through its utilities above and beyond all expenses. He said that the City's water rates are the lowest he has seen throughout the state and the \$3.75 base rate probably only covers the billing records. Mr. Small explained that when setting the utility rate structure, the base facility charge is called a customer availability charge, which covers the fixed operational and maintenance costs for the entire system to operate. He added that the Florida Water Management District wants cities to create rate structures that cause people to conserve water and to limit use.

Vice Mayor Elza felt that the current water rate structure is not appropriate for apartment buildings based on the number of units per building.

City Manager Maria V. Davis suggested a review of the rate structure for apartment buildings. She explained that the rates were recently adjusted but the base rate remained the same and perhaps the base rate should be adjusted according to meter size.

Mr. Small said that it is normal to adjust the base rate based on meter size, whether it is residential or commercial.

Vice Mayor Elza said that he would like to consider setting the rates on a per unit basis.

Mr. Small said that he considers the rate structure with three levels. Level one includes all direct expenses, level two includes the major overhead costs, and level three is the additional revenue that is calculated and transferred into the General Fund to offset property taxes. He referred to case law that defines what amount of additional revenue is reasonable, which is approximately 10-12%.

Ms. Davis said that the City calculates two-thirds of a mill for water and sewer combined.

Discussion ensued regarding the utility fees and deposits.

Vice Mayor Elza said that he would like the Administration to address the base service amount for rental units and the deposit procedures.

Mr. Small reviewed the guidelines of the City of Tallahassee's Energy Assistance Program, which offers discounts to low-income families on their utility bills.

Vice Mayor Elza commented that the City's enterprise funds have required the support of the General Fund in the past and they are not really profit centers that bring revenue to the General Fund, other than the administrative fees.

Mr. Small explained that there are indirect costs that the rate structure might not cover.

To answer Councilman Youngs' question, Mr. Small said that the City is maximizing its revenue options in many areas.

Discussion ensued regarding utility tax revenue and the City's utility tax ordinance that was adopted in 1972. Mr. Small suggested updating the ordinance because the law has changed many times since 1972, and he provided a model utility tax ordinance.

Councilman Youngs asked Mr. Small for feedback on municipal golf courses.

Mr. Small stated that he does not know of any municipal golf courses that break even or make a profit. He explained there is a competitive market that restricts the amount the City can charge for greens fees.

Councilman Youngs asked about the impact that annexation would have on the City's tax base.

Mr. Small said that there is a general opinion that annexing residential areas would cost more than the revenue that is received and commercial properties might actually require more services. He said that annexing residential areas would increase the City's population, which is directly tied to the state shared revenues.

Vice Mayor Elza thanked Mr. Small for his time and for offering information that will be helpful during the City's upcoming budget process.

4. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:17 p.m.

Billy Bain
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

Approved as written during meeting of: 8/11/2003

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.